

No. 5:10-CV-533-F

Defendants.

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noted, however, that “[t]he evidence eventually may show that the ‘Results Summary’ is not a consumer report, or that Tharrington Smith and/or Alice Stubbs had a permissible purpose under the FCRA for obtaining a consumer report on Plaintiff, or that the facts of this case do not come within the ambit of the FCRA.” Jan. 19, 2012 Order [DE-17] at p. 11.

Defendants now come forward with undisputed evidence showing that the “Results Summary” is not a consumer report. Under the FCRA, a consumer report is defined as

any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for—(A) credit or insurance to be used primarily for personal, family, or household purposes; (B) employment purposes; or (C) any other purpose authorized under section 1681b of this title [subject to various exclusions].

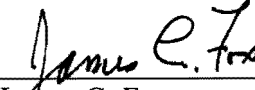
15 U.S.C. § 1681a(d)(1). As the statutory definition indicates, to be a consumer report, the information must be “used or expected to be used or collected . . . for the purpose of serving as a factor” in consumer credit decisions, employment decisions, or other non-applicable statutory purposes. *Id.* The sworn evidence provided by Defendants—which has not been rebutted by any admissible evidence from the Plaintiff—shows that Jill Jackson, an attorney with Tharrington Smith, requested a search of Pennsylvania court records of Plaintiff through courtsearch.com, with the intent of using the records in civil litigation involving Plaintiff. Decl. of Jill Jackson [DE-22] ¶ 5; Supplemental Decl. of Jill Jackson [DE-36.1] ¶¶ 6-9. The undisputed evidence also shows that CourtSearch explicitly warns its users that the information is not to be used for employment screening purposes, and does not intend for the information it provides to be used in credit or employment decisions. *See* Aff. of Brett Halna Du Fretay [DE-21] ¶¶ 8, 11, 12, 16, 17; Supplemental Aff. of Brett Halna Du Fretay [DE-36.2] ¶ 18. Accordingly, the evidence shows

that no one involved in the search of the records intended the information compiled to be used for employment or credit determination purposes. Rather, the evidence shows that all the participants intended the records to be used exactly as they were: in litigation. The upshot of all this is that the "Results Summary" is not a consumer report under the FCRA.

With no evidence that the Results Summary is a consumer report within the meaning of the FCRA, Plaintiff's claim under the statute fails. The Defendants' Motion for Summary Judgment [DE-20] is ALLOWED, and this case is DISMISSED.

SO ORDERED.

This the 21st day of March, 2012.



James C. Fox
Senior United States District Judge